

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1909 OF 2007

General Manager
Venky's (India) Ltd. & Anr. ... Petitioners

V/s.

Shri Chandrakant Vasantrao Dhone ... Respondent

Mr.Nitin Jamdar for Petitioner
Mr.A.M. Kulkarni for Respondent

CORAM: SMT.NISHITA MHATRE, J.

DATED: SEPTEMBER 17, 2007

P.C.:

. Rule. By consent of the parties, Rule made returnable forthwith and heard finally.

2. The case of the respondent workman is that he was appointed as a supervisor on 4.12.1993 by the petitioners. He was confirmed after being on probation for six months. He was directed to join duties at the Ajmer branch of the petitioners in 1998. He continued to work there till he reported for work on 23.1.2001 in the Pune office. According to the respondent workman, he was not permitted to resume duty at the Pune office. He therefore, filed a claim u/s 33C(2) of the Industrial Disputes Act contending that he was entitled to be paid wages from 23.1.2001 onwards as although he reported for work he was not being permitted to work. The workman thus claimed in his application leave encashment of Rs.7500/-, medical allowance of Rs.7000/- for the period

from 2001 to 2002 and arrears of wages of Rs.132,310/- .

3. The workman has admitted that a Reference has been obtained by him in respect of his termination from service. The workman has himself accepted that his services were terminated by the Petitioner company on 15.2.2001. The Labour Court could not have decided whether the workman was entitled to wages for the period from February 2001 onwards without a decision of the competent Court holding that the termination from service was illegal. The Labour Court ought to have dismissed the application since it had no jurisdiction to decide whether wages were payable to the workman after the termination of his services in February 2001.

4. It is well settled that the jurisdiction of the Labour Court is akin to an executing Court and only those amounts which are due to the workman as a matter of right can be claimed by him in application u/s 33C(2). The amount claimed by the workman was disputed by the employer since the workman's services had been terminated in February 2001. Therefore unless there was an adjudication by a proper forum as to whether the termination of services was illegal, the Labour Court could not have granted any amount for the period after the termination of his services. The Labour Court could not have decided whether the termination of service was

legal and proper as an incidental question.

5. In view of this, the award of the Labour Court is therefore set aside. Rule made absolute. No costs.

6. The Labour Court which is seized of Reference (IDA) No.25 of 2005, shall decide the Reference on its own merits uninfluenced by any findings of the Labour Court in the order impugned in this petition.